

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

**SESSION LAW 2011-3
SENATE BILL 76**

AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE INDUSTRIAL FACILITIES SALES TAX REFUND, A TECHNICAL CORRECTION TO THE MEMBERSHIP COUNT OF THE UWHARRIE COMMISSION, TO PROVIDE INTEREST ON OVERPAYMENT OF PROPERTY TAX, AND TO PROVIDE DELAY OF THE COLLECTION OF PROPERTY TAX PENDING APPEAL.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 105-164.14B(a) reads as rewritten:

"(a) Definitions. – The following definitions apply in this section:

...

(12) Owner. – The term includes a lessee under a capital lease.

(13) Paper-from-pulp manufacturing. – An industry primarily engaged in manufacturing or converting paper, other than newsprint or uncoated groundwood paper, from pulp or pulp products, or in converting purchased sanitary paper stock or wadding into sanitary paper products.

...

~~(20) Strategic partner. – A business that is engaged in activities at the facility that directly contribute to the manufacture and distribution of computers and computer peripherals and with whom the taxpayer has contracted to provide those activities at the facility in direct support of its manufacturing and distribution activities.~~

(21) Reserved.

(22) Turbine manufacturing. – An industry primarily engaged in manufacturing turbines or complete turbine generator set units, such as steam, hydraulic, gas, and wind. The term does not include the manufacturing of aircraft turbines."

SECTION 1.(b) G.S. 105-164.14B(b) reads as rewritten:

"(b) Refund. – An owner of an industrial facility that meets the business, minimum investment, and industry-specific requirements of this section is allowed an annual refund of sales and use tax paid by it under this Article on building materials, building supplies, fixtures, and equipment that are installed in the construction of the facility and that become a part of the real property of the facility. Liability incurred indirectly by the owner for sales and use taxes on those items is considered tax paid by the owner. The requirements are:

(1) Business requirement. – The facility is primarily engaged in one or more of the following:

a. Air courier services.

b. Aircraft manufacturing.

c. Bioprocessing.

d. Financial services, securities operations, and related systems development.

e. Motor vehicle manufacturing.



- f. Paper-from-pulp manufacturing.
 - g. Pharmaceutical and medicine manufacturing and distribution of pharmaceuticals and medicines.
 - ~~g-h.~~ Semiconductor manufacturing.
 - h-i. Solar electricity generating materials manufacturing.
 - j. Turbine manufacturing.
- (2) Minimum investment requirement. – The Secretary of Commerce has certified that the owner of the facility will invest at least the required amount of private funds to construct the facility in this State. For the purpose of this subsection, costs of construction may include costs of acquiring and improving land for the facility and costs of equipment for the facility. If the facility is located in a development tier one area, the required amount is fifty million dollars (\$50,000,000). For all other facilities, the required amount is one hundred million dollars (\$100,000,000). ~~In the case of a computer manufacturing facility, the~~ The owner may invest these funds either directly or indirectly through a related ~~entity or strategic partner~~ entity.
- (3) Industry-specific requirements:
- a. If the facility is primarily engaged in financial services, securities operations, and related systems development, it satisfies all of the following conditions:
 - 1. It is owned and operated by the business for which the services are provided or by a related entity of that business as defined in G.S. 105-130.7A.
 - 2. No part of it is leased to a third-party tenant that is not a related entity of the business.
 - b. If the facility is primarily engaged in solar electricity generating materials manufacturing, the business satisfies a wage standard at the facility. The wage standard is equal to one hundred five percent (105%) of the lesser of the average weekly wage for all insured private employers in the State and the average weekly wage for all insured private employers in the county. A business satisfies the wage standard if it pays an average weekly wage that is at least equal to the amount required by this sub-subdivision. In making the wage calculation, the business must include any jobs that were filled for at least 1,600 hours during the calendar year."

SECTION 2. G.S. 153C-3(d) reads as rewritten:

- "(d) Membership. – The Commission shall consist of ~~10~~12 members as follows:
- (1) One representative from the public at large who is a resident of the Uwharrie region of North Carolina appointed by the President Pro Tempore of the Senate.
 - (2) One representative from the public at large who is a resident of the Uwharrie region of North Carolina appointed by the Speaker of the House of Representatives.
 - (3) Four representatives from the public at large who are residents of the Uwharrie region of North Carolina to be appointed by the Governor, including:
 - a. Two who shall at the time of appointment be actively connected with or have experience in local government within the Uwharrie region of North Carolina.
 - b. One who shall at the time of appointment have experience in tourism or tourism development in the Uwharrie region of North Carolina.

- c. One who shall have experience in economic development in the Uwharrie region of North Carolina.
- (4) Two members to represent each of the following regional councils of government as appointed by those councils: the Centralina Council of Governments and the Piedmont Triad Council of Governments.
- (5) The Secretary of Commerce or the Secretary's designee.
- (6) The Secretary of Environment and Natural Resources or the Secretary's designee.

The members of the Commission shall elect a chair, vice-chair, and any other officers they consider necessary and shall determine the length of the term of office, not to exceed two years, of each officer. A majority of the Commission shall constitute a quorum. Each member appointed to the Commission shall be appointed to serve a four-year term. Any vacancy on the Commission shall be filled by the original appointing authority for the remainder of the unexpired term. Initial terms commence September 1, 2010."

SECTION 3.(a) G.S. 105-360 is amended by adding a new subsection to read:

"(e) When an order of the county board of equalization and review reduces the valuation of property or removes the property from the tax lists and, based on the order, the taxpayer has paid more tax than is due on the property, the taxpayer is entitled to receive interest on the overpayment in accordance with this subdivision. An overpayment of tax bears interest at the rate set under subsection (a) of this section from the date the interest begins to accrue until a refund is paid. Interest accrues from the later of the date the tax was paid and the date the tax would have been considered delinquent under G.S. 105-360. A refund is considered paid on a date determined by the governing body of the taxing unit that is no sooner than five days after a refund check is mailed."

SECTION 3.(b) G.S. 105-378(d) reads as rewritten:

"(d) Enforcement and Collection Delayed Pending Appeal. – When the board of county commissioners or municipal governing body delivers a tax receipt to a tax collector for any assessment that has been or is subsequently appealed to the county board of equalization and review or the Property Tax Commission, the tax collector may not seek collection of taxes or enforcement of a tax lien resulting from the assessment until the appeal has been finally adjudicated. The tax collector, however, may send an initial bill or notice to the taxpayer."

SECTION 4. Section 1 of this act becomes effective July 1, 2010, and applies to sales made on or after that date. Section 3 of this act becomes effective for taxable years beginning on or after January 1, 2011. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of March, 2011.

s/ Walter H. Dalton
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 8:25 a.m. this 9th day of March, 2011